

Question 2 (Replaces MEE Question 2 - Use MEE #2 Answer Booklet)
July 2002 Bar Examination
Decedents' Estates

Q.1. Todd Testator lived in the small town of Bootheel, Missouri. He never had any children, and was unmarried. Late in his life, he prepared a Will leaving all his property to his niece, Tina, the daughter of his only sibling, Rob. Todd died on July 15, 2000. At the time of Todd's death, and for approximately one year thereafter, Tina lived in St. Louis, Missouri and cared for an elderly friend. She was not particularly close to her Uncle Todd, who had quarreled with Rob when Rob and Todd's parents died years ago, and the two brothers had never patched up this breach in their relationship. Therefore, Tina did not know until she returned to Bootheel in July 2001 that Todd had died, or that she was named in Todd's Will. In September 2001, Tina presented Todd's Will to the Probate Division of the Bootheel County Circuit Court for probate.

Who will inherit Todd Testator's property? Explain why.

Q.2. Richard "Rich" Farmer was a prosperous, elderly farmer in Bootheel, Missouri. He had three adult children, all of whom had moved away long ago to pursue careers in St. Louis and Kansas City. After the death of Rich's wife, their mother, Rich's children seldom came to visit their father. Rich's health was failing, and he couldn't keep up with the work on his farm. Despite several efforts on his part to get one or more of his children to move back to Bootheel and take over his farm, none would agree to do so. In 1997, the daughter of one of Rich's neighbors, Wanda Nabors, and her husband Jim, began to help Rich out with his farming operation. Over time, Rich became very close to Wanda and Jim, and as Rich's health continued to deteriorate, the young couple moved into Rich's home to cook for him and tend to his personal and health care needs.

In March 2002, Rich died. His children were aware that in 1995 Rich had executed a Will leaving all his property to them in equal shares. After his death, they discovered that Rich had executed a new Will in late 2001 leaving all his property to Wanda and Jim. Rich's children also learned that Wanda and Jim's names had been added, on various dates beginning in early 2000, to

all of Rich's (quite large) bank accounts and certificates of deposit as "pay on death" beneficiaries. Finally, they heard a great many stories about how addled their father had become after a stroke he suffered in July of 1999, and how Jim and Wanda had prevented their father from seeing his friends and other relatives from the time of his stroke until his death. The only exceptions to the Nabors' isolation of Rich were to take him to the Bootheel National Bank (to add their names to various accounts and C.D.'s), and to see their attorney (not Rich's attorney) for the preparation of the new Will.

Can Rich disinherit his children by Will and/or by his "pay on death" beneficiary designations? If so, are there any potential problems with Rich's 2001 Will, or with the "pay on death" beneficiary designations of Wanda and Jim?

Question 5 (Replaces MEE Question 5 - Use MEE #5 Answer Booklet)

July 2002 Bar Examination

Family Law

In 1995, Husband Henry and Wife Wanda decide to get divorced after five years of marriage and three kids. Prior to their marriage, Henry and Wanda graduated from the same high school and attended the same college. Both received bachelor's degrees in education. They married during their last year in college. They had a child the following year. Neither had yet obtained a teaching job when their first child was born. They decided that Wanda would stay at home with their child and Henry got a teaching job with a modest salary. They had two more children in the following two years. After five years of marriage they decided to divorce. Wanda comes to you for advice. She wants to continue staying at home to raise their three children. She wants to know her chances on obtaining an award of child support and maintenance.

- 1. What factors will the court consider in determining child support?**
- 2. What factors will the court consider in determining whether to award Wanda maintenance?**

The court enters judgment that awards Wanda maintenance and the court orders Henry to pay 100% of the court-determined child support. Two years later Ex-wife Wanda files a motion to modify child support. She alleges that Ex-husband Henry's income has increased substantially because he got promoted to school superintendent, and she alleges that the children have become more expensive to support.

Ex-husband Henry files a counter-motion. He agrees that child support should be modified but he argues that Wanda should be responsible for 50% of whatever the court orders. He requests an elimination of maintenance to Wanda and a reduction of his proportionate share of child support from 100% to 50%. He alleges that Ex-wife Wanda is now earning more than him

because she started a home-based computer web-page development business and has been very successful. Because of her success he argues that he should no longer be responsible for paying her maintenance.

At trial Ex-wife Wanda admits that she now earns more than Henry. She states that the children cost more to raise these days but she provides no evidence.

- 3. Should the court modify child support and what factors will the court consider?**
- 4. Should the court modify or eliminate maintenance under these facts and what factors will the court consider?**

The trial court eliminates Wanda's maintenance and modifies child support to increase the total monthly child support amount and further orders that each party is responsible to pay 50% of the monthly child support amount.

Ex-wife Wanda files another motion to modify child support three years after entry of the first modification. She seeks an increase in child support for two reasons. She alleges that Ex-husband Henry is earning more money than before and she is now earning nothing. She has quit her business and she has gone back to school to seek a degree in theater.

Ex-husband Henry files a counter-motion seeking a reduction in his child support obligation. He argues that she cannot avoid her obligation by voluntarily quitting her job. He also argues that his obligation should be reduced because he has since remarried. His new wife (new-wife Nancy) has three children by a former marriage. Nancy does not work and Henry completely supports her three children.

- 5. What factors should the court consider in this request for modification of child support? Should the court modify child support under these facts?**